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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,487	07/27/2006	Atsushi Ito	2006_1111A	9852
52349 7590 10/04/2010 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER MITCHELL, JASON D				
ART UNIT 2193		PAPER NUMBER		
NOTIFICATION DATE 10/04/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/587,487

Applicant(s)

ITO ET AL.

Examiner

JASON MITCHELL

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 27 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SI/225)
Paper No(s)/Mail Date 10/21/08/7/27/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This action is in response to an application filed on 7/27/06.

Claims 1-7 are pending in this application.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 2 is objected to because of the following informalities:

Claim 2 recites "has been successfully installed a user terminal". It is believed this should read "has been successfully installed on a user terminal" Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 fails to fall within a statutory category of invention. It is directed to a program itself (i.e. "a receiving unit ... a predicting unit ... and an alerting unit"), not a process occurring as a result of executing the program, a machine programmed to operate in accordance with the program or a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality. It's also clearly not directed to a composition of matter. Therefore it is rejected as being non-statutory under 35 USC 101.

Claim 7 depends from claim 1 and does not address this issue and is thus also rejected as being non-statutory under 35 USC 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by US
2005/0022176 to Ramachandran et al. (Ramachandran)**

Claim 1: Ramachandran discloses a function managing apparatus for communicating with a user terminal, comprising:

a receiving unit configured to receive from the user terminal a new function identifier that identifies a new function to be installed on the user terminal (par. [0049] "identifying a new software module to be installed on a target computer (step 700)"), and installed function identifiers that respectively identify one or more functions previously installed on the user terminal (par. [0049] "Existing software modules are identified on the target computer (step 702)");

a predicting unit configured to specify the new function and the one or more installed functions based on the new function identifier and the installed function identifiers received by the receiving unit, and predict whether the new function will be successfully installed on the user terminal (par. [0050] "a determination is made as to whether a negative result is returned for the combination (step 706)"); and

an alerting unit configured to notify the user terminal of the prediction made by the predicting unit (par. [0050] "a determination is made as to whether a negative result is returned for the combination (step 706)"; par. [0042] ""this fact may be presented to the user").

Claim 2: The rejection of claim 1 is incorporated; further Ramachandran discloses:

a memory unit configured to associate and store combinations of a plurality of function identifiers that specify a plurality of functions, and data indicating whether or not any function among the plurality of functions has been successfully installed [in] a user terminal on which another function has been previously installed (par. [0032] "a database containing static and/or dynamic information regarding compatibility of combinations of software modules");

wherein the predicting unit is configured to search the memory unit using combinations of one or more installed function identifiers and new function identifiers as search keys, and predict whether the new function will be successfully installed based on the search result (par. [0049] "A query of a knowledge base is made for the combination of the software modules (step 704)").

Claim 3: The rejection of claim 2 is incorporated; further Ramachandran discloses the memory unit is configured to store, as a prediction result, data indicating whether or not any function among the plurality of functions will be successfully installed in a user terminal on which another function has been previously installed (par. [0036] "Install matrix 500"; Fig. 5); and

the predicting unit is configured to set, as a prediction result, data indicating whether a function will be successfully installed that is stored in an entry hit as a result of the search (par. [0042] ""this fact may be presented to the user").

Claim 4: The rejection of claim 2 is incorporated; further Ramachandran discloses the predicting unit is configured to determine that the prediction result is unclear when no entry is hit as a result of the search of the memory unit (par. [0050] "a negative result is considered to be present ... if data regarding the compatibility of the combination of software modules is absent"); and the alerting unit is configured to notify the user terminal that it is unclear whether the new function will be successfully installed (par. [0051] "This combination has not been tried before").

Claim 5: The rejection of claim 2 is incorporated; further Ramachandran discloses the receiving unit is configured to receive the installation sequence of the functions installed on the user terminal (par. [0030] "an installation program to install the software module"); the memory unit is configured to associate and store the installation sequence of the plurality of functions (par. [0030] "an installation program to install the software module"), and data indicating whether the function last installed among the plurality of functions was successfully installed in a user terminal on which another function was previously installed (par. [0032] "a database containing static and/or dynamic information regarding compatibility of combinations of software modules"); and

the predicting unit is configured to read from the memory unit the data indicating whether the new function was successfully installed in the user terminal on which one or more installed functions were previously installed (par. [0050] "a determination is made as to whether a negative result is returned for the combination (step 706)").

Claim 6: The rejection of claim 2 is incorporated; further Ramachandran discloses:

a result collecting unit configured to collect data indicating whether a new function was successfully installed on the user terminal from the user terminal (par. [0044] "Test process 620 is used to monitor the software modules 618 on test computer 614"); and

an updating unit configured to update the memory unit based on the data collected by the result collecting unit (par. [0045] "This data is sent back and stored in knowledge base 610").

Claim 7: The rejection of claim 1 is incorporated; further Ramachandran discloses:

a function classifying unit configured to classify and store functions having similar functions (par. [0055] "a closest match to the existing software modules is identified");

an alternate searching unit configured to search the function classification unit for another function similar to the new function in accordance with the prediction result of the predicting unit (par. [0046] "install process 608 may search knowledge base 610 for a closest match of software modules 604");

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wherein the alerting unit is configured to notify the user terminal of the function identifier identifying the other function found by the alternate searching unit (par. [0047]

"The user ... is prompted with ... the closest match combination".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON MITCHELL whose telephone number is (571)272-3728. The examiner can normally be reached on Monday-Thursday and alternate Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bullock Lewis can be reached on (571) 272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Mitchell/
Primary Examiner, Art Unit 2193